

TAXABLE ESTATE

**§ 20.2051-1 Definition of taxable estate.**

(a) *General rule.* The taxable estate of a decedent who was a citizen or resident (see § 20.0-1(b)(1)) of the United States at death is determined by subtracting the total amount of the deductions authorized by sections 2053 through 2058 from the total amount which must be included in the gross estate under sections 2031 through 2044. These deductions are in general as follows—

(1) Funeral and administration expenses and claims against the estate (including certain taxes and charitable pledges) (section 2053).

(2) Losses from casualty or theft during the administration of the estate (section 2054).

(3) Charitable transfers (section 2055).

(4) The marital deduction (section 2056).

(5) Qualified domestic trusts (section 2056A).

(6) Family-owned business interests (section 2057) to the extent applicable to estates of decedents.

(7) State death taxes (section 2058) to the extent applicable to estates of decedents.

(b) *Special rules.* See section 2106 and the corresponding regulations for special rules regarding the computation of the taxable estate of a decedent who was not a citizen or resident of the United States. See also § 1.642(g)-1 of this chapter concerning the disallowance for income tax purposes of certain deductions allowed for estate tax purposes.

(c) *Effective/applicability date.* This section applies to the estates of decedents dying on or after October 20, 2009.

[T.D. 9468, 74 FR 53657, Oct. 20, 2009]

**§ 20.2052-1 Exemption.**

An exemption of \$60,000 is allowed as a deduction under section 2052 from the gross estate of a decedent who was a citizen or resident of the United States at the time of his death. For the amount of the exemption allowed as a deduction from the gross estate of a decedent who was a nonresident not a citizen of the United States, see paragraph (a)(3) of § 20.2106-1.

**§ 20.2053-1 Deductions for expenses, indebtedness, and taxes; in general.**

(a) *General rule.* In determining the taxable estate of a decedent who was a citizen or resident of the United States at death, there are allowed as deductions under section 2053(a) and (b) amounts falling within the following two categories (subject to the limitations contained in this section and in §§ 20.2053-2 through 20.2053-10)—

(1) *First category.* Amounts which are payable out of property subject to claims and which are allowable by the law of the jurisdiction, whether within or without the United States, under which the estate is being administered for—

(i) Funeral expenses;

(ii) Administration expenses;

(iii) Claims against the estate (including taxes to the extent set forth in § 20.2053-6 and charitable pledges to the extent set forth in § 20.2053-5); and

(iv) Unpaid mortgages on, or any indebtedness in respect of, property, the value of the decedent's interest in which is included in the value of the gross estate undiminished by the mortgage or indebtedness.

As used in this subparagraph, the phrase “allowable by the law of the jurisdiction” means allowable by the law governing the administration of decedents' estates. The phrase has no reference to amounts allowable as deductions under a law which imposes a State death tax. See further §§ 20.2053-2 through 20.2053-7.

(2) *Second category.* Amounts representing expenses incurred in administering property which is included in the gross estate but which is not subject to claims and which—

(i) Would be allowed as deductions in the first category if the property being administered were subject to claims; and

(ii) Were paid before the expiration of the period of limitation for assessment provided in section 6501.

See further § 20.2053-8.

(b) *Provisions applicable to both categories—*(1) *In general.* If the item is not one of those described in paragraph (a) of this section, it is not deductible merely because payment is allowed by the local law. If the amount which may be expended for the particular purpose